

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

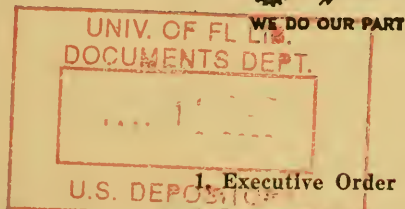
FOR THE

STEEL TUBULAR AND
FIREBOX BOILER INDUSTRY

AS APPROVED ON OCTOBER 23, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
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EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE STEEL TUBULAR AND FIREBOX BOILER INDUSTRY

An application having been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Steel Tubular and Firebox Boiler Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of Title I of said Act and that the requirements of Clause (1) and (2) of subsection (a) of Section 3 of the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do approve the report and recommendations and adopt the findings of the Administrator and do order that the said Code of Fair Competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
October 23, 1933.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

(III)

OCTOBER 7, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the hearing on the Code of Fair Competition for the Steel Tubular and Firebox Boiler Industry in the United States, conducted in Washington on September 28, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE FOR HOURS AND WAGES

Factory employment is limited to 40 hours per week, except on emergency or erection work, for which the time-and-a-half rate will be paid for inside work and double time for outside work. Executives, outside salesmen, and watchmen are not included in this schedule of hours. Where production requires less hours of work, the days per week may be reduced by agreement between employers and employees. New apprentices can be employed only with the consent of the Industry Committee and the Administrator, whose decisions will be based on the local unemployment conditions.

The minimum wage provided for factory workers will be 40 cents per hour except in specified southern states where the minimum will be 34 cents. Old or disabled employees will be paid no less than 80 percent of this minimum. The minimum wage for all other employees, except commission salesmen, will be not less than \$15 per week, office boys and girls receiving no less than 80 percent of this minimum. The minimum age of employees will be 16 years.

ECONOMIC EFFECT OF THE CODE

The 40-hour normal week for factory employees, with the additional pay for overtime, should tend to level employment peaks in this Industry and increase the number of workers. Though exact figures on this increase are not obtainable, it may be noted that the adoption of the 40-hour week under the Re-Employment Agreement and recent improved business have increased employment, from April 1st to September 1st, 45 percent.

As a result of the minimum wages provided, the average wage rate increase over those in effect April 1, 1933, has been estimated at 19 percent. The average minimum wage rate last April was approximately 30 cents and on September 1st, 36 cents.

The labor provisions of this Code conform, as agreed, to those of the Boiler Manufacturing Code. Steel Tubular and Firebox Boilers include the stationary type used in buildings. They are sold partly direct and partly through jobbers and contractors, in accordance with standard price lists and catalogs.

The comprehensive provisions of this Code on trade practices are substantially the same as those already established by the Steel Heat-

ing Boiler Institute, the members of which include 66 percent of the manufacturers and have 94 percent of the total volume of business. The practices incorporated in this Code provide a more liberal interpretation and more extensive application of the statutes, adequately standardizing and improving the trade conditions of the Industry as a whole.

This Industry has suffered severe losses during the depression. Sales have dropped from \$21,000,000 in 1928 to about \$5,000,000 in 1932; and the number of employees from 3,300 to a third of that figure the early part of this year. Only by increased business, which will come about, largely through an upturn in construction, can this capital goods Industry put a large number of employees back to work. In arriving at the terms expressed in the Code, it has shown its cooperation in complying with the spirit of the Act.

FINDINGS

The Administrator finds that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Steel Tubular and Firebox Boiler Industry; and that

(c) The Code as recommended is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

It is recommended, therefore, that this Code be immediately adopted.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE STEEL TUBULAR AND FIREBOX BOILER INDUSTRY

ARTICLE I—PURPOSES

The following provisions are established as a Code of Fair Competition for the Steel Tubular and Firebox Boiler Industry in order to effectuate the policy of Title I of the National Industrial Recovery Act.

ARTICLE II—DEFINITIONS

The term "Steel Tubular and Firebox Boiler Industry" as used herein (hereinafter abbreviated to "this industry") is defined to mean all manufacturers of steel heating boilers as defined in Section IV, Sub-Section I, of the Boiler Code of the American Society of Mechanical Engineers; also, for all working pressures, Scotch type boilers for stationary use, vertical fire tube boilers, horizontal firebox type boilers, tubeless boilers, oil country boilers, miniature boilers.

The term "member of this industry" as used herein is defined to mean, but without limitation, all persons, partnerships, or corporations who manufacture any of the above-specified items.

The term "member of the Code" as used herein is defined to mean any member of this industry who signifies assent to this Code.

ARTICLE III—HOURS

SECTION 1. (a) No employer shall employ, in any labor operations, any person more than 40 hours per week, five consecutive days and eight consecutive hours per day, exclusive of meal period, except watchmen and/or as provided under paragraph (b), provided, however, that where it is necessary to work less than 40 hours per week, the hours may be divided by agreement between the employer and the employees to a lesser number of days per week, but in no case shall the hours exceed nine per day.

(b) In cases of emergency production, repair or erection work that cannot be met by the employment of additional men and/or it becomes necessary, in order to protect life or property, to exceed the hours scheduled in Section I (a), all such excess time shall be paid for at the rate of not less than one and one-half times the hourly rate for shop work. For all outside repair, renewal, construction and/or erection work, not less than double the hourly rate shall be paid for all such excess time.

(c) No new apprentices shall be employed in the industry except that the Executive Committee (as designated in Article VI), subject to the approval of the Administrator, may grant the employment of such new apprentices if in his judgment the existing surplus of unemployed local labor is absorbed in reasonably steady employment.

This is not to be construed to prohibit instruction of mechanics already employed in this industry.

(d) For all other employees except executives, executives' secretaries, administrative and supervisory employees, and traveling and commission salespeople, the time worked shall not be in excess of 40 hours per week.

SEC. 2. No employee shall be employed or permitted to work for one or more employers in this industry in the aggregate in excess of the prescribed number of hours in a single week; provided, however, that if any employee works for more than one employer for an aggregate period in excess of such maximum without the connivance of any one of such employers, said employer shall not be held to have violated this provision.

ARTICLE IV—WAGES

SECTION 1. (a) The minimum wages that shall be paid by any employer to any employee of the Steel Tubular and Firebox Boiler Industry in labor operations directly incident thereto shall be 34¢ per hour for the Southern territory and 40¢ per hour for all other portions of the United States. The Southern territory is located South of the States of Maryland, West Virginia, and Kentucky and East of the Mississippi River.

(b) Old or partially disabled employees unable to perform their usual duties are not included in the above labor provisions, except that they shall in no case be paid less than 80% of the above minimum, and provided that the total number of such employees shall not exceed 5% of the total number employed by any one employer or where less than forty (40) persons are employed such employer shall be entitled to two (2) employees of this class.

(c) The minimum wage that shall be paid by any employer to all employees, other than those covered in Section I (a) and (b) except commission salespeople, shall not be less than \$15 per week; provided, however, that office boys and girls may be paid not less than 80% of such minimum wage, but the total number of such office boys or girls shall not exceed in any calendar month 5% of the total number of all employees covered by the provisions of this Section I (c) and provided further that where a State law provides a higher minimum wage, no person shall be paid a lower wage than that required by such law, within that State.

SEC. 2. No employee shall be classified in any one of the exempted classes defined in this Article and in Article III, unless he performs functions substantially identical with those performed by employees thus classified on June 16, 1933.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No employer shall employ any person under sixteen years of age. Provided, that where a State law provides a higher minimum age, no person below the age specified by such State law shall be employed within that State.

SEC. 2. All employers in this industry shall comply with the provisions of Sub-Section (a), Section 7, of the National Industrial

Recovery Act, as follows: (1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SEC. 3. Any system of contracting shop work by which an employee undertakes to do a piece of work at a specific price, and engages other employees to work for him, is prohibited by this Code.

SEC. 4. The wage differentials for all operations shall be equitably readjusted and in no case shall they be decreased. No unfair advantage shall be taken of any employee in making this Code effective. Each member of this industry shall report all such readjustments to the Manager within 30 days of the effective date.

SEC. 5. No employer shall contract for the fabrication and/or erection of any of the products of this industry with any employer or employee except when such employer or employee agrees to comply with the labor provisions of this Code during the performance of the contract.

SEC. 6. Each employer shall post in each workshop and on central notice board in his factory the labor provisions of this Code.

ARTICLE VI—ADMINISTRATION

SECTION 1. The Steel Heating Boiler Institute, hereinafter designated as the S.H.B.I., shall not impose any inequitable restrictions on admission to membership.

SEC. 2. The Executive Committee of the S.H.B.I., to membership of which the President may appoint one nonvoting member, is hereby designated an Agency to cooperate with the Administrator in the administration and enforcement of this Code, and for this purpose shall appoint a full-time manager who, subject to approval of the Executive Committee and the Administrator, shall (a) attempt to determine within the industry as to whether any member has, or has not, adhered to the provisions of this Code; (b) act as the industry's representative in all dealings with the Government; (c) conduct any investigation or survey within this industry that might be of general benefit to this industry.

SEC. 3. With a view to supplying data as to the observance or nonobservance of the Code, each member of this industry shall make such reports relating to matters covered by this Code at such times and in such form as the Executive Committee of the S.H.B.I., subject to the approval of the Administrator, shall prescribe. Such reports shall be received by the Manager. The Executive Committee of the S.H.B.I. may require said reports to be substantiated by

oath. If the manager has reason to believe that any report of any member is inaccurate, such report may be verified by inspection of the books and records of such member by a disinterested and impartial agency designated by the Executive Committee of the S.H.B.I., subject to the approval of the Administrator. The said reports shall be held in confidence by the Manager except insofar as disclosure may be necessary for the effective enforcement of this Code.

SEC. 4. Nothing in this Code shall preclude furnishing of compiled data to the members of this industry by the Manager.

SEC. 5. In addition to information required to be submitted to the Executive Committee of the S.H.B.I. there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in section 3 (a) of the National Industrial Recovery Act.

SEC. 6. Members of this Code shall be entitled to participate in the Code activities of the S.H.B.I.

SEC. 7. Each member of the Code shall contribute his equitable and proportionate share toward the cost of administration of this Code, either by becoming a member of the S.H.B.I. or by paying an amount equal to that portion of the dues and/or assessments paid by members of the S.H.B.I. which are used to defray the expense of administration of this Code.

SEC. 8. Upon request of the manager each member of the Code shall submit data necessary for prorating this expense. Each member of this Code shall pay his prorated share of this expense upon demand of the Treasurer of the S.H.B.I.

SEC. 9. Each member of this industry shall report to the manager any infraction of a provision of this Code by any other member of this industry where said infraction affects the reporting member's business.

SEC. 10. Each member of this industry who violates any provisions of this Code is liable to the penalty prescribed by the National Industrial Recovery Act.

ARTICLE VII—TRADE PRACTICES

SEC. 1. In order to promote fair competition and prevent discrimination between purchasers, the following provisions shall be observed and practiced by all members of this industry:

(a) Prices, terms, and discounts shall be openly and publicly announced, and to this end they shall be issued in printed form by the individual manufacturer.

(b) All offers to sell which take the form of a quotation shall represent the true prices and terms at which the manufacturer will sell the goods covered by the quotation then being made, and any omission of parts, or the furnishing of additional equipment shall be reflected in the selling price.

(c) All goods sold shall be invoiced at the true selling prices.

(d) No member of this industry shall disseminate false or misleading information relative to competitor's products, selling prices, credit standing, ability to perform work, or labor conditions among competitor's employees.

(e) No member shall give any gratuity to any person, including, but without limitation, any natural person, partnership, association or corporation, to induce such person to specify, allow, or approve the products of a particular manufacturer.

(f) No member shall allow unjust claims for alleged shortage or breakage.

(g) No member of this industry shall circulate, not in good faith but for the purpose of harassing and intimidating customers, threats of suit for infringement of patents or trade marks among customers of a competitor.

(h) No member of this industry shall attempt to induce the breach or abandonment of any contract between a member and his customer.

(i) No member of this industry shall be a party to commercial bribery in any form or under any condition.

(j) No member of this industry shall enter into a written or oral agreement with any person that one or more clauses of the contract or the specification will not be enforced, thereby receiving an unfair advantage over competitors.

(k) No member of this industry shall make a deposit for the privilege of receiving plans and specifications and the opportunity to bid on a contract without an agreement that the return of the full amount of the deposit will be made upon the return of the said plans and specifications to the issuer.

(l) The members of this industry manufacture and sell equipment and this industry does not look with favor on guarantees of any character other than those relating to materials and workmanship, and under no condition shall any maintenance guarantees be made. No member of this industry shall promise a better performance or make a higher guarantee than previous experience indicates can be obtained.

(m) No member of this industry shall accept a contract containing a penalty clause either for performance of the apparatus sold or for time of delivery, unless the contract shall also contain a clause providing a bonus to the member at the same rate as the rate of penalty, except with the approval of the Executive Committee whose decision shall be subject to approval of the Administrator.

(n) All quotations shall be made in accordance with published price lists and any items not covered by such price lists shall be included in the quotation with price list items and shall be itemized at the normal selling price.

(o) All members shall include in all price lists, quotations and contracts such general terms, discounts, freight terms, and guarantees as may be prescribed by the Executive Committee subject to approval of the Administrator.

(p) All members shall send to the Manager two copies of price sheets and catalogs and as many additional copies as he may require for distribution to other members.

(q) Any member making any change in a published price list shall mail notice to the manager five business days prior to effective date of such change and concurrently shall place in the mail notices to all known competitive members giving details of change. Other members by mailing notices to the manager and to all other known competitive members may make price list change effective the same



date as specified in the notice received. The operation of the foregoing at all times shall be subject to the approval of the Administrator.

SEC. 2. No member of this industry shall sell any of his products at or below cost. Cost shall be determined by a system of cost accounting approved by the Executive Committee, subject to the approval of the Administrator.

ARTICLE VIII—MONOPOLIES

No provision in this Code shall be interpreted or applied in such manner as to (a) permit monopolies or monopolistic practices, (b) permit or encourage unfair competition, (c) eliminate, discriminate against, or oppress small enterprises.

ARTICLE IX—MODIFICATION

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

SEC. 2. Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code or additional Codes will be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices.

ARTICLE X—EFFECTIVE DATE

SECTION 1. This code shall be effective as the Code of Fair Competition for the Steel Tubular and Firebox Boiler Industry on the second Monday following date of approval by the President of the United States.

SEC. 2. This Code shall continue in effect for a period of ninety days after the effective date of approval and thereafter until terminated as hereinafter provided. It may be terminated at any time after the expiration of such period by the same action by members of the Code as is above provided for the amendment thereof. When so terminated all obligations and liabilities under the Code shall cease, except those for unpaid assessments theretofore made in accordance with the provisions of the Code and those for liquidation damages theretofore accrued under any provisions of the Code.